IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 18TH JUNE 2007 / 28TH JYAISHTA 1929

Crl.MC.No. 168 of 2006(A)

CC.879/1990 of JUDL.MAGISTRATE OF FIRST CLASS-I, ALUVA

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PETITIONER:

KUNJUMON, S/O.POOKOYA THANGAL,
MALAYEKKAL HOUSE, THOTTUMUGHAM P.O.,
ALUVA.

BY ADV. SRI.C.D.JOHNY
SRI.P.SHAIJAN JOSEPH

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY
SUB INSPECTOR OF POLICE, ALUVA, REP. BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA.

2. USMAN, S/O.AIMU AMMU, AGED 39,
PALLICKAL HOUSE, KAIPPADAMUGHAL KARA,
THRIKKAKARA NORTH VILLAGE.

BY ADV. SRI.LIFFY P. FRANCIS
PUBLIC PROSECUTOR SRI.M.S. BREEZ.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 18/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NO. 168 OF 2006

Dated this the 18th day of June, 2007

ORDER

The petitioner is the accused in a prosecution under Sec.420 of the IPC. The proceedings were initiated at the instance of the de facto complainant. The petitioner was found guilty, convicted and sentenced. The verdict of guilty, conviction and sentence have now become final with the disposal of Crl.R.P.No.484/97 by this Court. The petitioner along with the respondent/the de facto complainant has come before this Court to apprise the Court of the fact that the offence under Sec.420 of the IPC which is compoundable has been settled between the petitioner and the de facto complainant and the complainant has compounded the offence under Sec.420 of the IPC committed by the petitioner. It is, in these circumstances, prayed that the dictum in **Sabu George v. Home Secretary (**2007 (1) KLT 982) may be applied and

the post revision composition may be accepted.

2. The offence under Sec.420 of the IPC is compoundable under Sec.320(2) of the Cr.P.C. with the permission of the court. I am satisfied from the submissions made at the Bar by the learned counsel for the rival contestants, from the averments in the Crl.M.C. and from the statements made in the joint application filed by the parties that the parties have willingly and voluntarily settled their disputes and the de facto complainant has compounded the offence committed by the petitioner. If legally permissible, I am satisfied that the composition can be accepted and the petitioner can be spared of the trauma of undergoing imprisonment for a period of one month. That is the substantive sentence imposed on the petitioner. There is, of course, a further direction that an amount of Rs.20,000/- must be paid as composition to the de facto complainant. That payment has already been made, it is asserted.

3. Notice was given to the learned Public Prosecutor also. The learned Public Prosecutor does not raise any objection. I am satisfied, considering all the relevant inputs, that this is an eminently fit case where the dictum in **Sabu George v. Home Secretary (**2007 (1) KLT 982) can be applied and the

composition accepted.

4. In the result:

(a) This Crl.M.C. is allowed.

(b) The composition of the offence is accepted and the sentence imposed on the petitioner is set aside.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge